



BULLETIN

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Sales Tax Exemptions for Over-the-Counter Drugs and Medicines

For Texas tax purposes, a drug or medicine is defined as a product (other than an appliance, device or food product) that is applied to the human body; ingested or inhaled by humans; and intended or marketed for the diagnosis, cure, mitigation, treatment or prevention of disease, illness, injury or pain. Over-the-counter (OTC) drugs and medicines are those for which a prescription is not needed.

Exemption

Over-the-counter (OTC) drugs and medicines were exempted from sales tax on April 1, 2000. In 2007, legislation further defined the exemption for OTC drugs and medicines to apply only to drugs or medicines that are required to be labeled with a Drug Facts panel in accordance with regulations of the Food and Drug Administration (FDA). If an item is required by the FDA to be labeled with a Drug Facts panel, then it is exempt from sales tax. A product that meets the definition of a drug or medicine, but is not required by the FDA to be labeled with a Drug Facts panel, is exempt from tax when prescribed or dispensed by a physician.

A Drug Facts panel has detailed information about product ingredients, uses, directions and warnings so consumers can properly choose and use the products. Only OTC drugs and medicines designed for humans are exempt. Drugs and medicines for animals, such as

flea repellants and de-wormers, are exempt only when purchased with a veterinarian's prescription.



Examples of Exempt OTC Drugs and Medicines

The following list contains examples of OTC products that qualify for exemption if they are required to be labeled with a Drug Facts panel in accordance with FDA regulations. The list is intended as a guide and does not include all tax-exempt OTC products.

- Acne treatment products
- Allergy treatment products
- Analgesics
- Antacids
- Anti-diarrhea and anti-nausea products
- Anti-fungal products
- Anti-rheumatic products
- Anti-vomiting products and vomiting inducements
- Antibacterial personal care items (hand sanitizer, wipes, soap)
- Antibiotic topical ointments
- Antihistamines
- Antiperspirants
- Antiseptic sprays, creams and lozenges
- Bronchodilator and anti-asthmatic products
- Cold remedies
- Cough suppressants
- Dandruff products (medicated)
- Dental products (medicated)



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- Ear care products
- Eye drops (medicated)
- Hemorrhoid products
- Insect bite treatments
- Laxatives
- Nicotine gum or patches and smoking cessation aids
- Pain relievers such as aspirin, ibuprofen and acetaminophen
- Sedatives and sleep aids
- Toothache treatments

Sunscreen

Sunscreen was originally exempted from sales tax on April 1, 2000, along with other over-the-counter drugs and medicines. Sunscreen then became taxable due to legislation that only exempted over-the-counter drugs and medicines required by the Food and Drug Administration (FDA) to be labeled with a Drugs Fact panel on Sept. 1, 2007. As of June 18, 2012, sunscreen is once again exempt from Texas sales and use tax because the FDA published a final rule requiring sunscreen products to be labeled with a Drug Facts panel.

Wound Care Dressings and Supplies

Wound care dressings and supplies are exempt from sales tax and may be purchased tax free without a prescription or exemption certificate. A wound care dressing is defined as an item that is applied directly to or inside a wound to absorb wound drainage, protect healing tissue, maintain a moist or dry wound environment (as appropriate) or prevent bacterial contamination.

Listed below are examples of exempt wound care dressings and supplies. Keep in mind that this list is only an example of items and is not all-inclusive:

- adhesive bandages (including strip adhesive bandages, large adhesive bandages and butterfly closures)
- gauze rolls and pads
- liquid bandage products
- medical tape

Dietary and Nutritional Supplements

Dietary and nutritional supplements are exempt from sales tax.

For purposes of this exemption, a dietary or nutritional supplement is a product that:

- (1) contains one or more vitamins, minerals, herbs, botanicals, amino acids or substances to increase calorie intake;
- (2) is not represented as a food or the sole item of a meal or diet; and
- (3) is labeled, or required to be labeled, "dietary supplement" or "supplement."

A product that does not meet the previous three criteria will also be considered a dietary supplement if the product is labeled, or required to be labeled, with a Supplement Facts panel in accordance with FDA regulations.

More Information

For more information on the taxability of drugs, medicines, medical equipment and devices, see Rule 3.284.

For additional information on the taxability of a particular product, please call the Comptroller's helpline at 1-800-252-5555, or visit the Comptroller's website at www.window.state.tx.us.

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